

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

NEIL ADAMS McGINNIS,

Plaintiff,

v.

DONALD HOLBROOK, BERNARD  
WARNER, DR. JOHN EDWARDS,  
JOHN DOE and JANE DOE,

Defendants.

NO: 4:15-CV-5072-TOR

ORDER DENYING MOTION FOR  
SUMMARY JUDGMENT AS MOOT  
AND ORDER TO RE-DOCKET  
MOTION AS A NOTICE OF APPEAL

By Order filed January 22, 2016 (ECF No. 23) the Court adopted the Magistrate Judge's Report and Recommendation in its entirety, denied Plaintiff's application to proceed *in forma pauperis* as precluded by 28 U.S.C. § 1915(g), and dismissed this action (ECF No. 23). The Court certified that any appeal of that dismissal would not be taken in good faith (ECF No. 23 at 3). Judgment was entered the same day (ECF No. 24) and the file was closed.

On February 4, 2016, Plaintiff submitted a document titled:

ORDER DENYING MOTION FOR SUMMARY JUDGMENT AS MOOT AND  
ORDER TO RE-DOCKET MOTION AS A NOTICE OF APPEAL -- 1

1 “MOTION FOR SUMMARY JUDGEMENT, **APPEAL AS OF**  
2 **RIGHT** INVOKING FEDERAL RULES OF CIVIL PROCEDURE  
3 RULE 56(a)(c)(1),(2),(3),(4)(d)(e)(f)(g)(h) 2 USC SEC 1316a (3)  
4 REMEDIES; 2 USC SEC 1317 Prohibition of intimidation or reprisals  
(a) (b); 28 USC SEC 2072 28 USC SEC 1915(g) Romandette v.  
Weetabix Co. (1986) 807 F2d 309 - Pro Se’s best due diligence;  
**FEDERAL RAP rule 4”**

5 ECF No. 25 (bold emphasis added). This document was docketed as a Motion for  
6 Summary Judgment and noted for hearing without oral argument on March 7,  
7 2016. It was considered without oral argument on the date signed below.


8 A Motion for Summary Judgment is not appropriate in this closed case.  
9 Therefore, **IT IS ORDERED** Plaintiff’s Motion for Summary Judgment is  
10 **DENIED as moot.**

11 However, due to Mr. McGinnis’ *pro se* status and to preserve any appellate  
12 rights he may have been attempting to invoke, **IT IS ORDERED** that the Clerk of  
13 Court shall re-docket the Motion (ECF No. 25) as a “Notice of Appeal” and  
14 process it accordingly, as of the date it was originally filed, February 4, 2016.

15 **IT IS SO ORDERED.** The District Court Executive is directed to enter this  
16 Order and forward a copy to Plaintiff. The district court file shall remain closed.

17 **DATED** February 29, 2016.



  
THOMAS O. RICE  
Chief United States District Judge